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3629	

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Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/848,051	BARTON ET AL.
	Examiner	Art Unit	
	Dennis Ruhl	3629	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on *3/26/09*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-89* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-89* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

Applicant's response of 3/29/06 has been entered.

1.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
> matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
> conditions and requirements of this title..

2.   Claims 16-18,24,31, are rejected under 35 U.S.C. 101 because the claimed

invention is directed to non-statutory subject matter.

For claims 16-18,24, it is claimed that a QFD score is calculated and that a PRN

is calculated using a specific formula. The examiner takes notice of the fact that it is a

person that decides what values the variables of "severity rating" and "process strength

rating" are supposed to have for the QFD. The QFD is calculated from the multiplication

of these two values together, see page 16 of the instant specification. Because all of

the variables used to calculate the QFD score are disclosed as being determined by

people, the result of the invention is not considered to be concrete (i.e. it is not capable

of being repeated to arrive at a particular result). Because of the fact that different

people may ascribe different values to the variables used in the equation, the result is

not guaranteed. The claim is not statutory because the result is not concrete (i.e. it is

not capable of being repeated due to the human factor). The input is judgmental and

will vary from person to person so the result will vary as well. The same holds true for

claim 24 that recites the variables used to calculate a PRN, the values are determined

by people and are judgmental in nature; therefore, the claim does not have a concrete

result. Additionally, because the results are not concrete, the examiner does not see

how the result is useful in the context of 35 USC 101. Because the QFD score is only

as accurate as the inputted data is accurate, the result is not considered to be useful. If

the result can vary depending on the person deciding what values the variables of the

equation are supposed to have, then one cannot have any confidence in the obtained

result, because it is only as good as the data inputted into the equation. There is no

guarantee that the result obtained is even accurate, because the entire equation is

based on a person's perception and judgments as to what the severity rating is and

what the strength process rating is.

For claim 31, the examiner notes that the apparatus claim contains a recitation

directed to using recited structure of the system. This is improper because a claim

cannot be both an apparatus claim and a method claim. This is a mixing of two distinct

statutory classes of invention. The limitation of "the questionnaire is transmitted from

said server to said computer..." is a positive recitation of doing a step in a method, in an

apparatus claim. This is improper and renders the claim as non-statutory.

3.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4.   Claims 31-89, are rejected under 35 U.S.C. 112, first paragraph, as failing to

comply with the enablement requirement. The claim(s) contains subject matter which

was not described in the specification in such a way as to enable one skilled in the art to

which it pertains, or with which it is most nearly connected, to make and/or use the

invention.

With respect to claims 31,63-89, and the recitation that the server prioritizes the compliance risks for the business, identifies potential failure modes with causes and effects, and recommends risk monitoring and control mechanisms, one of skill in the art would not be able to make the server do what is claimed. This is because the applicant has disclosed that it is people that do these steps, not the server. One of skill in the art would not be able to figure out how to get the server to prioritize the risks because this depends on what the business sees as the most risky based on any known consequences that may happen if the risk materializes. How would one of skill in the art go about making the server prioritize the risks, especially for a plurality of different business settings that have different compliance issues that need to be dealt with? How is this done? How can the server know what to do? With respect to identifying failure modes and the causes and effects, how is this done by the server? How does the server know what possible failures could occur for any kind of business process? The same is true for the recommendation of risk monitoring and control mechanisms, how does the server do this? One of skill in the art would be left guessing how to program the server to do what the specification disclosed is being done by people. The server is clearly used in the storing of data and in collecting/receiving the data, but the specification is full of references to the fact that it is people doing the majority of the actions, not the server. One of skill in the art would not be able to make the invention as claimed and undue experimentation would be involved to make the server to do what is claimed. The claims are not enabled because one of skill in the art would not be able to make a server that does everything that is claimed.

For claims 63-89 the following paragraphs are relevant to what is claimed.

For claims 32,33,35,36, the claim is not enabled. How can the server assemble the cross-functional team and conduct an interview with a person, etc.. As stated with respect to claim 31, people are disclosed as doing these steps, not the server. People, not the server, also do the summary of the results. One of skill in the art would not be able to make the server do what is claimed and undue experimentation would be involved.

For claim 34, one of skill in the art would not be able to go about and make a server that can create a questionnaire as claimed. How can the server know what the business is and what questions should be asked? The server cannot do this step, people do. Applicant has not disclosed how one of skill in the art can make the server do what is claimed.

For claims 37,38, how can the server compile results on its own? One of skill in the art would not know how to go about and make the server do what is claimed.

For claims 39-42, how would one of skill in the art go about making the server prioritize the risks deemed to be important to the business, especially when that is disclosed as being done by people. The server is not capable of knowing what the business management members know and cannot map a risk model, compile compliance requirements and prioritize them, assign a severity rating (disclosed as being done by people), etc.. One of skill in the art would not be able to make the server do what is claimed, especially in view of the fact that the specification discloses that people do these steps. The same is true for claim 40, the guidance from the

specification does not include how to make the server do what is claimed because people do it. For claim 41, how does the server compile a list of requirements that include company policy as well as the other recited requirements? The server does not compile the various requirements it is an employee that compiles the requirements.

Claims 43-62 are also found to be non-enabled for the same reasoning as set forth above. The specification teaches that people compile the list of compliance requirements, people prioritize the risks, people assign severity ratings and process strength ratings, people map the risk model and identify possible failure modes, assign occurrence and detection factors, define recommended actions, etc..

For all of claims 31-89, Applicant has not given enough disclosure to enable one of skill in the art to make a computer system that has a server that does everything that is claimed. One of skill in the art reading the specification would be very confused because of the fact that it is disclosed that people do most of the recites steps, not the server. One of skill in the art would have to undergo undue experimentation to design an intelligent system that can basically tell management what to do and more or less run the company with respect to compliance issues. The way the claims are written it is the server doing everything, but the specification teaches that most of the steps are done by people. The claims are not enabled for these reasons.

5.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

6.   Claims 2,5,6,8,11,21,23,26,29,31-62,70, are rejected under 35 U.S.C. 112,

second paragraph, as being indefinite for failing to particularly point out and distinctly

claim the subject matter which applicant regards as the invention.

For claims 2,8,32,34,50 the portion of claim 2 that recites "identifying and

interviewing process owners for the questionnaire answers" seems to contradict the

amended language for claim 1. This problem then flows to claim 8. Claim 1 recites that

the questionnaire is displayed on a client system of a compliance person and they are

the ones that submit answers. Claim 2 is reciting process owners as being interviewed.

Which is correct? The language from claim 1 or what is claimed in claim 2? It is not

clear as to who is providing answers for the questionnaire, is it the compliance person

or the process owners? This is not clear.

For claim 5, it is claimed that the cross-functional team "that was used to conduct

the compliance program assessment" is reassembled. Where was it previously claimed

that a cross functional team was assembled to do any kind of compliance assessment?

This is not previously recited as being in the claim scope, in fact that previous language

about conducing a program assessment was canceled by amendment and it appears

this claim was simply not amended to be in agreement with earlier claims. This renders

the claim indefinite because it is not known if the claim requires a functional team to

conduct a compliance program assessment or not and it is not clear if they are being

assembled once or more than once? With respect to the limitation of "assigning

severity, occurrence, and detection Factors", what does this mean? Assigned the

factors to what? This is indefinite because it is not clear what it means. The claimed

recitation of "calculating Risk Prioritization Numbers" is also not clear. Is this another

calculation step of another set of RPNs in addition to the RPN calculation step that is

recited in claim 1? How many different risk prioritization numbers are being calculated?

Both claims recite the calculation of numbers with the same name. With respect to the

"defining scorecard content", what does this mean? What scorecard? Due to the

indefiniteness of the claim as a whole, it will be examined as the claim is best

understood by the examiner.

For claim 6, the language "implementing risk monitoring and control mechanisms

are in place" makes no sense and is considered indefinite for this reason. What does

this portion mean?

For claim 11,39, it is claimed that a list of compliance requirements is compiled.

Claim 1 recites that the requirements are stored in the database. Are these the same

requirements or two different sets of requirements? This is not clear. Also, if the

requirements are already recited as being saved in a database, which is a list, what

does this step require that is not already within the scope of claim 1? It has also been

claimed that compliance requirements were prioritized, so is this a recitation to the

same step that has already been recited? With respect to the entering of a severity

rating, this is also already clamed in claim 1 because it is claimed that the risks are

prioritized based on a severity rating. The severity rating inherently must have been

entered in claim 1 to allow the prioritization step to occur, otherwise the method cannot

be performed correctly if you don't have the required data to perform a step. Also, the step of prioritizing compliance risk areas is not clear because claim 1 already recites that the compliance risks are being prioritized. Is this the same step as recited in claim 1, if not then what is the difference. What is the claimed quality function deployment? The specification discloses a QFD matrix, but nothing about something called a quality function deployment? Are they the same thing? Without the word "matrix", the term quality function deployment does not even seem to be a noun. What is it? Due to the indefiniteness of the claim as a whole, it will be examined as the claim is best understood by the examiner.

For claim 21,51,52, it is not clear if there are two process maps being claimed or just one. Is the process map that has the matrix the same process map as is recited in line 3? This is not clear.

For claim 23, there is no antecedent basis for "the failure mode and effect analysis matrix". No matrix of this kind has previously been claimed and it is not clear as to what this is referring to. The scope of this claim is not clear.

For claim 26,57, it is not clear as to what the limitation of "automatically reassigning ratings" is referring to. What ratings? It seems that the only rating claimed in the scope of this claims is found in claim 1 (severity rating). What other ratings have been claimed? It is not clear as to what this claim is requiring.

For claim 29,59, what is a "policy dashboard"? One wishing to avoid infringement would not know what this is. This renders the claim as indefinite.

For claim 31, it is not clear what statutory class of invention is being claimed. Is this an apparatus claim or a method claim? The limitation of "the questionnaire is transmitted from said server to said computer..." is a positive recitation of doing a step of a method, in what otherwise appears to be an apparatus claim. Additionally, one wishing to avoid infringement would not know if just having the claimed system would be infringement, or if having the claimed system and using it in the claimed manner would be infringement. This confusion arises from the fact that applicant has a limitation directed to a method of using the recited structural elements of the system.

For claim 70, there is no antecedent basis for most of the claimed language. This is because the language referred to in claim 70 was canceled by the most recent amendment and claim 70 was not amended accordingly. Correction is required. The claim scope if indefinite because it is not clear as to what is being claimed.

7.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8.   This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

9.   Claims 1-16,18-23,25-45,47-53,55-89, are rejected under 35 U.S.C. 103(a) as

being unpatentable over Fetherston (20020120642).

     For claims 1,3,5,6,11-16,18,19,21,23,29,31,39-45,47,48,51,52,59,63-65,68-

74,76-89, Fetherston discloses a system and method of determining a company's

compliance with legislative conditions and/or internal managerial conditions. Fetherston

discloses a compliance management system that determines and identifies compliance

or lack of compliance with certain criteria (relating to processes or products of

business). The server is 2 and the database is 4 and/or 16. The client system is

disclosed in paragraph 28 where it is disclosed that the system can be a "stand alone"

computer or may be connected to other components (computers) of a network. It is

also stated that the system can be implemented on separate networked computers

accessible from all or selected levels of an organization. Information concerning

compliance is stored in the database as claimed. This includes a questionnaire (see

figure 4, paragraphs 34 and 38) and compliance requirements (see paragraph 12). Also

see figure 4 where it is disclosed that one of the data entries is the "Department".

Identifying the department also identifies the persons responsible for compliance (i.e.

the employees in that department). In paragraph 38 it is disclosed that a user is forced

to follow a process and pattern of data entry (by using a computer) to collect data

needed to determine the level of compliance with the saved compliance requirements.

This involves the displaying of the questionnaire of figure 4 on a client system (a computer) that is inherently based on saved compliance information relating the whatever requirements have to be complied with. The server 2 then receives the entered data, and saving the data "processes" the data. The system also prioritizes the compliance risk for a business by identifying the compliance risks and prioritizing them from high to low based on a severity rating. Paragraph 42 discloses the identification of hazards (risks) that exceed a certain rating. This satisfies the claimed identification of the compliance risks. Assigning a numerical priority to each risk by using a "risk assessment rating" prioritizes the identified risks. The risk assessment rating satisfies the claimed "severity rating". The calculating of a risk prioritization number for each risk is satisfied by the disclosure that "the user may specify the threshold value, enabling an organization to concentrate first on high priority hazards by specifying a high threshold, then lowering the threshold to concentrate on lower priority hazards". The user "calculates" or figures out how important each risk is at the present time (based on factors which inherently include current compliance with certain criteria, which is saved data stored in the database) to arrive at a prioritization number (threshold value) for each risk. Once the various risks are analyzed and management is aware of potential problems, implementation of controls such as training can be done. The database also stores information on training to be given (a control).

Not specifically disclosed is the step of identifying failure modes with the causes and effects of the compliance failure modes along with the storing of this data in the database (also relates to the claimed FEMA for claim 11). When one receives an

indication that certain legislative requirements (or internal company criteria) are not

being met, one of ordinary skill in the art would obviously want to know why that is

happening, so that the problem can be fixed. Upon receiving information that indicates

failure to comply with certain compliance requirements, one of ordinary skill in the art at

the time the invention was made would have been motivated to identify failure modes

for each risk, with the associated causes and effects of those failure modes so that the

problem can be corrected (by taking actions). This is how one of ordinary skill in the art

would go about correcting the non-compliance issues identified. You must first identify

the problem and figure out why it is happening (causes/effects) before you can arrive at

a solution (an action). One of ordinary skill in the art would have been motivated to do

what is claimed. With respect to the storing of the data in the database, the Background

of the invention section states that some legislation requires employers "to provide an

audit trail of their actions that is sufficiently transparent to show that they have an

effective management program which includes hazard identification, appropriate training

and supervision of staff, recording details", etc.. One of ordinary skill in the art at the

time the invention was made would have been motivated to save all of the compliance

data in the database to ensure that there is a transparent audit trail that would be

evidence of management doing what they are supposed to be doing as far as

compliance monitoring goes.

For claims 2,32,34,50, with respect to the limitation of defining what constitutes a

yes answer, the examiner notes that paragraph 37 discloses that one of the formats for

the questionnaire is a "true/false" type of format. That is the same as having yes or no

answers. This inherently involves a previous determination as to what defines a yes

(true) or no (false) answer so that the compliance assessment can be performed.

People make up the forms and the questions, not the computer system. In Fetherston

questionnaire answers are obtained, and results are complied and presented to

management as claimed. Not disclosed is a "binary questionnaire", and the assembling

of a cross functional team. With respect to the "binary questionnaire", the use of binary

code is very old and well known in the art. Binary language is the basic language that

computers use for data. It would have been obvious to one of ordinary skill in the art at

the time the invention was made to use a "binary" questionnaire because the use of

binary code is very old and well known in the art and is something that one of ordinary

skill in the art would readily be aware of. With respect to the assembling of a cross

functional team, the examiner notes that applicant does not actually recite that the team

does anything. One of ordinary skill in the art at the time the invention was made would

have found it obvious to assemble a cross functional team (a team of employees) that

would serve to help set up the entire compliance monitoring system and assist in

determining what questions should be asked when a "true/false" format for the

questionnaire is used.

For claim 4, not specifically disclosed is the step of identifying failure modes with

the causes and effects of the compliance failure modes along with the storing of this

data in the database. When one receives an indication that certain legislative

requirements (or internal company criteria) are not being met, one of ordinary skill in the

art would obviously want to know why that is happening, so that the problem can be

fixed. Upon receiving information that indicates failure to comply with certain compliance requirements, one of ordinary skill in the art at the time the invention was made would have been motivated to identify failure modes for each risk, with the associated causes and effects of those failure modes so that the problem can be corrected. This is how one of ordinary skill in the art would go about correcting the non-compliance issues identified. You must first identify the problem and figure out why it is happening (causes/effects) before you can arrive at a solution. One of ordinary skill in the art would have been motivated to do what is claimed. Also not disclosed is the prioritizing actions that need to be taken and the developing of a scorecard to be used as a monitoring and reporting tool. With respect to the prioritizing of actions that need to be taken, when one determines the reason why non-compliance is occurring and develops a proposed solution (actions that need to be taken), one of ordinary skill in the art at the time the invention was made would have been motivated to prioritize those actions that need to be taken so more effort can be spent on those actions that will provide more of a positive result, so that effort is not spent on actions that have a small effect on the problem. With respect to the development of a policy scorecard, one of ordinary skill in the art at the time the invention was made would have found it obvious to have some manner by which one could grade the efforts of management in compliance monitoring and in correcting any issues of non-compliance. This is interpreted to be the mere assessment or appraisal of the company in its efforts to ensure company compliance and in fixing the problems. Appraisals or reports on the

performance of a company or a part of a company are nothing new (i.e. GAO reports of the Federal Government).

With respect to claim 7, in addition to that disclosed above, not disclosed is ensuring that the actions are completed in a timely manner. One of ordinary skill in the art at the time the invention was made would have been motivated to ensure that any corrective actions that need to be taken are done in a timely manner, so that the identified non-compliance risks will not continue. Timely completion of taking action to correct the problems is something that one of ordinary skill in the art would clearly appreciate.

For claims 8,33,35,36,66,67, the questionnaire is a "question owners matrix". It is a matrix of questions to be answered. The use of a knowledge base is the use of the computer system and the stored data. That is a knowledge base.

For claims 9,37, not disclosed is the use of a spreadsheet to compile the results. It is old and well known in the art that spreadsheets are used to process data and display data for anything one desires. One of ordinary skill in the art would have this fact in their knowledge. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a spreadsheet to display results data, because spreadsheets are well known as being a commonly used format to display data and is something that one of ordinary skill in the art would understand and appreciate.

For claims 10,30,38, not disclosed specifically is the use of a program assessment summary and a policy assessment summary. Taking into consideration that the reason you are tracking compliance data is to ensure that you are in

compliance with certain regulations or criteria and given that summary data is complied

in Fetherston, it would have been obvious to one of ordinary skill in the art at the time

the invention was made to present the upper members of management with a summary

of how the "compliance program" is going by having a program assessment (is the

program working and achieving real world results that justify the program's existence)

and a policy summary, that summarizes what policies (i.e. training programs) are

working or not working. One of ordinary skill in the art would have been motivated to

summarize the results as claimed.

For claims 11,39, not disclosed is the mapping of a high level business risk

model and a quality function deployment. With respect to the risk model, one of

ordinary skill in the art would have found the use of a risk model (very broad language)

as obvious, because this is the way that one would go about analyzing the risk to a

company. You would construct a risk model, which can simply be a report of the

possible risks and how they may affect the company. With respect to the quality

function deployment, as this is best understood by the examiner, this is the use of a

matrix to summarize the compliance requirements (from page 12 of the instant

specification). The use of a matrix is old and well known in the art. One of ordinary skill

in the art would have found the use of a matrix obvious because one of ordinary skill in

the art would recognize that matrixes can be used to summarize any kind of data one

desires.

For claims 20,49, not disclosed is the identifying of the top 3-5 compliance

requirements that have the highest risk. One of ordinary skill in the art would clearly be

the most concerned with those compliance areas that have the greatest risk. This is just obvious common sense that one of ordinary skill in the art would recognize. With respect to determining the top 3-5 compliance requirements, one of ordinary skill in the art would find it obvious to not just focus on one compliance risk area, but to focus on a plurality of the top areas of concern. Depending on the number of compliance areas in need of attendance, one of ordinary skill in the art would have found it obvious to identify the top 3-5 compliance requirement that have the greatest risk to the business, so that those risks can be minimized.

For claims 22,53, not specifically disclosed is determining failure modes for each step in a process. In the rejection for claim 1, the issue of determining failure modes and causes and effects was addressed. With respect to determining failure modes for each step in a process, one of ordinary skill in the art would have been motivated to do a complete failure mode analysis, which would involve looking at all steps of a process where failures could occur. One of ordinary skill in the art would be motivated to look at the entire process, not just one step, so that the analysis would be complete and as accurate as possible. With respect to brainstorming potential effects, this is part of the determination of the cause and effects that has been previously addressed. Brainstorming is just coming up with what the effects could be.

For claims 25,55,56, not disclosed is the step of entering the recommended actions, an owner, and an expected date of completion into the matrix. The limitation of determining actions to be taken has already been addressed. With respect to the entering of these actions in addition to an owner and an expected completion date, one

of ordinary skill in the art would have been motivated to track the recommended actions,

who is responsible for ensuring they are followed through on, and when it is expected

that they are going to be completed. This is information that one of ordinary skill in the

art would have recognized as being important. If you take the time to formulate some

actions that can be taken to minimize the risk to a company, you would also be

motivated to track the progress of those actions and document who is responsible for

ensuring that those actions are undertaken, along with dates of when it will be

completed, so that the management personnel overseeing the implementation of these

actions will know what they are doing, who is doing it, and what the timeline is for the

progress of those actions. One of ordinary skill in the art would have been motivated to

do what is claimed.

For claims 26,27,57, not disclosed is the reassigning of ratings and recalculation

of the RPN or monitoring the progress. When one is using the method of Fetherston to

address compliance risks, one of ordinary skill in the art would have been motivated to

revisit the issues at a later point in time to see whether or not the risk of non-compliance

has gone down (monitoring the progress). One of ordinary skill in the art would have

found it obvious to recalculate the severity rating and take another look at whether or

not the previously determined risk is still a priority that needs to be addressed. This

inherently involves recalculating the RPN.

For claims 28,58, with respect to the use of a policy scorecard, one of ordinary

skill in the art at the time the invention was made would have found it obvious to have

some manner by which one could grade the efforts of management in compliance

monitoring and in correcting any issues of non-compliance. This limitation is interpreted

to be the mere assessment or appraisal of the company in its efforts to ensure company

compliance and in fixing the problems. Appraisals or reports (scorecards) on the

performance of a company or a part of a company are nothing new (i.e. GAO reports of

the Federal Government).

For claims 60-62, the prior art is fully capable of operating as claimed. The

server can receive information in any of the claimed manners.

10.   Applicant's arguments with respect to claims 1-89 have been considered but are

moot in view of the new ground(s) of rejection.

11.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Dennis Ruhl whose telephone number is 571-272-6808.

The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

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you have questions on access to the Private PAIR system, contact the Electronic

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DENNIS RUHL
PRIMARY EXAMINER